



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,264	04/27/2006	Francois Alwyn Joubert	511-71	5565
23117 7590 05/18/2009 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
WEBER, JONATHAN C				
ART UNIT		PAPER NUMBER		
3641				
MAIL DATE		DELIVERY MODE		
05/18/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/562,264

Applicant(s)

JOUBERT, FRANCOIS ALWYN

Examiner

Jonathan C. Weber

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5, 8, 13-18 and 24-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 8, 13, 18 and 24 is/are rejected.
- 7) ☒ Claim(s) 5, 14-17 and 25-28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the **“engraving in the barrel”** and the **“retaining means”** must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1. **Claim 1** is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The "engraving in the barrel" has not been described to the extent necessary to allow the examiner to determine what is meant by such a limitation. Is the applicant referring to a location, structure, etc? Clarification is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

2. **Claim element "retaining means", in claims 13 and 24**, is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to disclose the corresponding structure, material, or acts for the claimed function. The applicant has not disclosed how the "first chain-retaining device" travels from its first position to its second position, so it is unclear what type of structure would be used to prevent the "first chain-retaining device" from moving. Further, the drawings have not shown the devices and their interactions clearly enough to allow one

skilled in the art to make and/or use the claimed invention without undue experimentation.

Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it expressly recites what structure, material, or acts perform the claimed function without introducing any new matter (35 U.S.C. 132(a)).

If applicant is of the opinion that the written description of the specification already implicitly or inherently discloses the corresponding structure, material, or acts so that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function, applicant is required to clarify the record by either:

(a) Amending the written description of the specification such that it expressly recites the corresponding structure, material, or acts for performing the claimed function and clearly links or associates the structure, material, or acts to the claimed function, without introducing any new matter (35 U.S.C. 132(a)); or

(b) Stating on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification, perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1, 8, and 18** are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 889,321 issued to Meigs et al (Meigs).

Regarding claim 1, Meigs discloses an ammunition loading assembly for loading a projectile into a barrel of a gun (In view of Figure 1), the loading assembly comprising: an urging member (13, Figure 1) for urging the projectile into the barrel of the gun (It is understood that a "rammer" performs this function); and drive means (19 & 20, Figure 1) for driving the urging member between a projectile receiving position outside the barrel and a projectile delivery position inside a chamber of the gun (Col. 1 Lines 49-54 & Col. 2 Lines 55-72, the purpose of a "rammer" is to load a projectile or other elements into the barrel of a gun), and is capable of delivering the projectile proximate to the commencement of pre-existing engraving in the barrel at the proximate end of the barrel, so that the projectile is delivered into the proximate end of the barrel just before engraving whereby the projectile engages the engraving in the barrel under it's own momentum so that the projectile is engraved by engaging the engraving in the barrel (Note: It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex*

Parte Masham, 2USPQ2d 1647 '1987'), the drive means including a drive chain assembly (16, In view of Figure 1) connected to the urging member (In view of Figure 1, elements 16 are connected to element 13) for driving the urging member between the projectile receiving and delivery positions (In view of Figure 1, it is understood that the loading assembly moves the projectile between receiving and delivery positions).

Regarding claim 8, Y discloses wherein the drive chain assembly is constituted of a plurality of chain links pivotally connected to each other (16, Figure 1); and wherein each chain link is provided with a retaining block (14, Figure 1), each retaining block comprising a base for connecting to a chain link (14, connects to links 16, Figures 1 & 2) and two abutment faces extending upwardly from the base (17, Figure 2), the angle between the base and each abutment face being marginally greater than 90 degrees (The angle between the base and each abutment face appears to be greater than 90 degrees), so that each retaining block abuts the retaining block of a consecutive chain link to make the drive chain assembly rigid in all directions but one (14, Figure 1, when two links abut, the chain is rigidised in all directions save one, Col. 2 Lines 64-66), such that when the drive chain assembly is bent in the one direction, the retaining blocks are displaced from each other (In view of Figure 2, Links 16 are shown with retaining blocks 14 which spread apart when the chain is bent about the sprocket wheel 18), and when the drive chain assembly is in a linear configuration, adjacent retaining blocks abut each other to limit bending of the drive chain assembly in all but said one direction (In view of Figure 2, adjacent retaining blocks 14 abut each other and limit bending), the retaining blocks being configured so that, when the blocks abut each other, the drive chain

assembly extends in a loose curve, and when the curve is straightened the drive chain assembly is stressed (In view of Figure 2, it is understood that the drive chain assembly is stressed by straightening the curve).

Regarding claim 18, Meigs discloses a gun including an ammunition loading assembly according to claim 1 (In view of Figure 1).

Allowable Subject Matter

4. **Claims 5, 14-17, and 25-28** objected to as being dependent upon a rejected base claim.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan C. Weber whose telephone number is (571)270-5377. The examiner can normally be reached on Monday-Friday 7:30AM-4:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on (571)272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael J. Carone/
Supervisory Patent Examiner, Art Unit 3641

/J. C. W./
Examiner, Art Unit 3641